

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE  
LITIGATION

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THIS DOCUMENT RELATES TO ALL  
CLASS ACTIONS

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)  
) MDL No. 1456  
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) CIVIL ACTION: 01-CV-12257-PBS  
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) Judge Patti B. Saris  
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**PLAINTIFFS' NOTICE OF WITHDRAWAL OF PLAINTIFFS' MOTION TO COMPEL  
PRODUCTION BY BAXTER WITHOUT PREJUDICE**

Plaintiffs respectfully notify this Court that they have withdrawn Plaintiffs' Motion To Compel Production By Baxter without prejudice. Since the filing of Plaintiffs' Motion To Compel on November 8, 2005, Plaintiffs and Baxter have conferred regarding the documents that Baxter has not yet produced in this matter and the depositions that will need to be taken once the documents are produced. As a result of that meet and confer process, the parties agreed to an extension of the Track II discovery schedule with respect to Baxter and filed Plaintiffs' and Defendant Baxter's Joint Agreed Motion for Extension to Track II Discovery Schedule with Respect to Baxter on November 22, 2005. Plaintiffs also agreed to withdraw their pending Motion To Compel. However, Plaintiffs and Baxter have agreed that Plaintiffs' withdrawal of the Motion To Compel is without prejudice to re-file.

DATED: November 22, 2005

By /s/ Elizabeth A. Fegan

Thomas M. Sobol (BBO#471770)

Edward Notargiacomo (BBO#567636)

Hagens Berman Sobol Shapiro LLP

One Main Street, 4th Floor

Cambridge, MA 02142

Telephone: (617) 482-3700

Facsimile: (617) 482-3003

**LIAISON COUNSEL**

Steve W. Berman  
Sean R. Matt  
Robert F. Lopez  
Hagens Berman Sobol Shapiro LLP  
1301 Fifth Avenue, Suite 2900  
Seattle, WA 98101  
Telephone: (206) 623-7292  
Facsimile: (206) 623-0594

Elizabeth A. Fegan  
Hagens Berman Sobol Shapiro LLP  
60 W. Randolph Street, Suite 200  
Chicago, IL 60601  
Telephone: (312) 762-9235  
Facsimile: (312) 762-9286

Eugene A. Spector  
Jeffrey Kodroff  
Spector, Roseman & Kodroff, P.C.  
1818 Market Street, Suite 2500  
Philadelphia, PA 19103  
Telephone: (215) 496-0300  
Facsimile: (215) 496-6611

Marc H. Edelson  
Allan Hoffman  
Hoffman & Edelson  
45 West Court Street  
Doylestown, PA 18901  
Telephone: (215) 230-8043  
Facsimile: (215) 230-8735

Kenneth A. Wexler  
Jennifer F. Connolly  
The Wexler Firm LLP  
One North LaSalle Street, Suite 2000  
Chicago, IL 60602  
Telephone: (312) 346-2222  
Facsimile: (312) 346-0022

Samuel D. Heins  
Alan I. Gilbert  
Susan E. MacMenamin  
Heins, Mills & Olson, P.C.  
3550 IDS Center  
80 South Eighth Street  
Minneapolis, MN 55402  
Telephone: (612) 338-4605  
Facsimile: (612) 338-4692  
**CO-LEAD COUNSEL FOR  
PLAINTIFFS**

**CERTIFICATE OF SERVICE**

I hereby certify that I, Elizabeth A. Fegan, an attorney, caused a true and correct copy of the foregoing **PLAINTIFFS' NOTICE OF WITHDRAWAL OF PLAINTIFFS' MOTION TO COMPEL PRODUCTION BY BAXTER** to be delivered to all counsel of record by electronic service pursuant to Paragraph 11 of the Case Management Order No. 2, by sending on November 22, 2005, a copy to LexisNexis File & Serve for posting and notification to all parties.

By /s/ Elizabeth A. Fegan